

REMARKS

Claim 1 has been amended. The specification has been amended to correct certain informalities. Accordingly, claims 1-33 are currently pending in the application, of which claims 1, 8, 23, and 29 are independent claims.

Applicant respectfully submits that the above amendments do not add new matter to the application and are fully supported by the specification.

Applicant requests reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Rejections Under 35 U.S.C. § 102

Claims 1, 3, 4, 6-24, 26, and 29-30 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,064,978 issued to Gardner, *et al.* ("Gardner"). Applicant respectfully traverses this rejection for at least the following reasons.

In order for a rejection under 35 U.S.C. § 102(b) to be proper, a single reference must disclose every claimed feature. To be patentable, a claim need only recite a single novel feature that is not disclosed in the cited reference. Thus, the failure of a cited reference to disclose one or more claimed features renders the 35 U.S.C. § 102(b) rejection improper.

The Office Action fails to establish a *prima facie* case of anticipation at least because Gardner fails to disclose every claimed feature.

Claim 1 recites, *inter alia*:

- (c) receiving evaluation data for the question from a second user and an operator of the web page;
- (d) calculating evaluation result data, using the processor, by reflecting the evaluation data

Claim 8 recites, *inter alia*:

providing a question input by a first user on a given web page;

...

if a plurality of answers are input, receiving votes for the answers from a third user for a predetermined voting period; and
increasing polling score, using the processor, corresponding to the answers in response to the input of the votes

Claim 23 recites, *inter alia*:

if the period has elapsed, receiving input for adopting the answer and evaluation data for the adopted answer from the first user; and
increasing point data, using the processor, associated with the second user who input the adopted answer based on the evaluation data

Claim 29 recites, *inter alia*:

(a) providing a question input by a first user on a given web page;
(b) receiving answers for the question from a second user for a predetermined period;
(c) providing the answers on a web page in association with the question;
(d) deciding, using the processor, the question and an answer associated with the question as knowledge data;
(e) receiving a recommendation for the knowledge data from a third user; and
(f) providing the recommendation on the web page in association with the knowledge data

For at least the reasons noted on pages 14-16 in the Reply of December 16, 2009, Gardner fails to disclose at least these features. In the **Response to Arguments**, the Office Action (pages 15-16) cites MPEP 2144.01 which states that "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." (*In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968)). However, this portion of the MPEP is related to obviousness rejections under 35 U.S.C. § 103(a) and does not apply to this rejection under 35 U.S.C. § 102(b). Further, the features of claims 1, 8, 23, and 29 would not have been obvious to the ordinary artisan at the time of invention in view of Gardner at least because Gardner does not disclose or suggest every claimed feature as recited in the claims.

Alternatively, the Office Action appears to assert that Gardner inherently teaches the above features of claims 1, 8, 23, and 29. “To establish inherency, the extrinsic evidence, ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill in the art.’ *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d, 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). “In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 UiSPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” MPEP § 2112.IV (citing to *In re Rijckaert*, 9 F.3d 1531, 1534, (Fed. Cir. 1993)) (emphasis added). Applicant respectfully submits that the Examiner has failed to meet such a burden of illustrating the above features of claims 1, 8, 23, and 29 are inherent in Gardner.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1, 8, 23, and 29. Claims 2-7 and 33 depend from claim 1 and are allowable at least for this reason. Claims 9-22 depend from claim 8 and are allowable at least for this reason. Claims 24, 26, and 28 depend from claim 23 and are allowable at least for this reason. Claims 25 and 27 depend from claim 8 or 23 and are allowable at least for this reason. Claims 30-32 depend from claim 29 and are allowable at least for this reason. Since none of the other prior art of record discloses or suggests all the features of the claimed invention, Applicant respectfully submits that independent claims 1, 8, 23, and 29, and all the claims that depend therefrom, are allowable.

Rejections Under 35 U.S.C. § 103

Claims 2, 5, 25, 27, 28, and 31-33 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Gardner in view of U.S. Patent Application Publication No. 2003/0163356 applied for by Marks, *et al.* ("Marks"). Applicant respectfully traverses this rejection for at least the following reasons.

Applicant respectfully submits that claims 1, 8, 23, and 29 are allowable over Gardner, and Marks fails to cure the deficiencies of Gardner noted above with regard to claims 1, 8, 23, and 29. Hence, claims 2, 5, 25, 27, 28, and 31-33 are allowable at least because they depend from allowable claim 1, 8, 23, or 29.

Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of claims 2, 5, 25, 27, 28, and 31-33. Since none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed invention, Applicant respectfully submits that claims 2, 5, 25, 27, 28, and 31-33 are allowable.

CONCLUSION

A full and complete response has been made to the pending Office Action, and all of the stated grounds for rejection have been overcome or rendered moot. Accordingly, all pending claims are allowable, and the application is in condition for allowance.

The Examiner is invited to contact Applicant's undersigned representative at the number below if it would expedite prosecution. Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,

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